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SUPREME COURT U. S.

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1949

No. 456

THE INTERNATIONAL UNION OF UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, C.I.O., ET AL.,

Appellants,

vs.

GERALD K. O'BRIEN, WAYNE COUNTY PROSECUTING ATTORNEY AND STEPHEN J. ROTH, ATTORNEY GENERAL OF THE STATE OF MICHIGAN.

APPEAL FROM THE SUPREME COURT OF THE STATE OF MICHIGAN

STATEMENT OPPOSING JURISDICTION AND MOTION TO DISMISS OR AFFIRM

STEPHEN J. ROTH,
Attorney General of Michigan,
EDMUND E. SHEPHERD,
Solicitor General of Michigan,
GERALD K. O'BRIEN,
Prosecuting Attorney,
Wayne County,
PHILLIP A. McHUGH,
Assistant Prosecuting Attorney,
Wayne County,
Counsel for Appellees.

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1949

No. 456

THE INTERNATIONAL UNION OF UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, C.I.O., EMIL MAZEY, IN HIS OWN BEHALF AND IN BEHALF OF 1776 EMPLOYEES OF THE CHRYSLER CORPORATION, NORMAN MATTHEWS, ARTHUR GRUDZEN, ALEX BARBOUR, WILSON KUCK, RALPH FILECCI, ALFRED S. MARCANGELO, RICHARD T. LEONARD, LEONARD McPHERSON, FREDERICK JOHNSTON, WALTER ROOD, WILLIAM T. ARCHER, MICHAEL LACEY, HARRY SOUTHWELL, AND BLAIN MARRIN,

Plaintiffs and Appellants,

vs.

GERALD K. O'BRIEN, WAYNE COUNTY PROSECUTING ATTORNEY AND STEPHEN J. ROTH, ATTORNEY GENERAL OF THE STATE OF MICHIGAN,

Defendants and Appellees.

APPEAL FROM THE SUPREME COURT OF THE STATE OF MICHIGAN

APPELLEES' STATEMENT DISCLOSING MATTERS AND GROUNDS MAKING AGAINST JURISDICTION AND MOTION TO DISMISS OR AFFIRM.

The appellees, believing that the matters set forth below will demonstrate the lack of substance in the Federal questions raised by this appeal, file this, their statement dis-

closing matters and grounds making against jurisdiction, and pursuant to Court Rule 13, § 3, they respectfully move the Court to dismiss the appeal or affirm the judgment of the court below, on the ground that the Federal questions raised on behalf of appellants, are so unsubstantial as to need no further argument, and therefore warrant the Court in summarily disposing of the appeal at this stage of the proceedings, *specif.*, because

1. In passing upon the substance of such questions, the Court will consider themselves bound by the decision in this cause, *UAW-CIO v. Wayne County Prosecuting Attorney*, 325 Mich. 250, 38 N. W. 2d 421, insofar as the state court determined "the meaning or effect of a statute,"[1] *viz.*, Act No. 176, Pub. Acts Mich., 1939, as amended, Comp Laws 1948, § 423.1 et seq., Stat. Ann. 1947 Cum. Supp. § 17.454 (1) et seq., entitled "AN ACT to create a board for the mediation of labor disputes, and to prescribe its powers and duties; to provide for the mediation and arbitration of labor disputes, and the holding of elections thereon; to provide for the creation of arbitration boards; to regulate the conduct of parties to labor disputes and to require the parties to follow certain procedures; to regulate and limit the right to strike and picket; to protect the rights and privileges of employees, including the right to organize and engage in lawful concerted activities; to protect the rights and privileges of employers; to make certain acts unlawful; to prescribe penalties for violations of the provisions of this act; and to repeal sections 8616 to 8628, inclusive, of the Compiled Laws of 1929, and all other acts or parts of acts inconsistent with the provisions of this Act."

2. It appears upon the face of the record, that the decision of the court below, which rejected the claim

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[1] *Greenough* v. *Tax Assessors*, 331 U. S. 486, 497.

that the provisions of §§ 9, 9a, 9b, 9c and 22 of the act aforesaid, prohibiting the calling of a strike unless and until the majority of all employees in the collective bargaining unit have so voted in a state-conducted election, conflict with the provisions of the National Labor Management Relations Act of 1947,[2] was plainly right and in accordance with well-considered judgments of this Court in similar cases,

Kelly v. *Washington*, 302 U. S. 1, 10;
Auto Workers v. *Wisconsin Board*, 336 U. S. 245;
Algoma Plywood Co. v. *Wisconsin Board*, 336 U. S. 301.

3. The court below was also plainly correct in holding that the provision of the foregoing statute requiring a vote of the majority of employees belonging to a collective bargaining unit as a prerequisite to calling a strike, is not so unreasonable an exercise of the police power of the State as to be unconstitutional as denying freedom of speech and of assembly of due process of law, Federal Constitution, 1st and 14th Amendments, such decision being in harmony with the aforesaid judgments of this Court, and with

Lincoln Union v. *Northwestern Co.*, 335 U. S. 525;
A. F. of L. v. *American Sash Co.*, 336 U. S. 538.

We respectfully invite the Court to read the opinion of the court below, wherein the questions involved are much more clearly discussed than we could ever hope to present them.

Wherefore, appellees respectfully submit this statement disclosing the foregoing matters and grounds making

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[2] National Labor Relations Act, §§ 1-17, as amended by National Labor Management Relations Act of 1947, §§ 1-407, 29 USC §§ 141-197.

against the jurisdiction of this Court, and in that connection, their motion to dismiss or affirm.

Respectfully submitted,

STEPHEN J. ROTH,
Attorney General of Michigan,
EDMUND E. SHEPHERD,
Solicitor General of Michigan,
GERALD K. O'BRIEN,
Prosecuting Attorney,
Wayne County,
PHILLIP A. MCHUGH,
Assistant Prosecuting Attorney,
Counsel for Appellees.

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